

Donna Sullivan

<p style="text-align: right;">Page 86</p> <p>1 15 in front of you, can you tell where in line this 2 one was filed? 3 A. This deed was recorded last. 4 Q. If a lender had funded the loan of the 5 deed to Alicia Juergensen, which is Fidelity-14, 6 would Fidelity-15 have affected the lender's interest 7 in that property? 8 A. If the mortgage to -- made by Alicia 9 Juergensen in connection with the Cristo, Juergensen 10 closing was recorded after the deed from Alicia 11 Juergensen to Alicia Juergensen and Capital Assets, 12 this last deed would impact that mortgage. 13 (Fidelity-16, Mortgage dated November 14 13, 1996, is received and marked for identification.) 15 Q. I'm handing you what's been marked as 16 Fidelity-16, which is a mortgage to Alicia Juergensen 17 dated November 13, 1996 from Walsh Securities. 18 States that the security instrument is given to 19 National Home Funding, which is organized and 20 existing under the laws of New Jersey, etcetera. 21 Down at the bottom there's a stamp which states when 22 it was recorded on. Looks like it was recorded on 23 April 9, 1997. Can you tell looking at 24 Fidelity-13 -- 13, 14, 15 and 16 where Fidelity-16 25 fell in line?</p>	<p style="text-align: right;">Page 88</p> <p>1 A. No. 2 Q. Why not? 3 A. I would assume that it was done in 4 error. 5 Q. That it was Coastal's error? 6 A. Yeah. Well, I don't know what Coastal 7 instructed the clerk's office either. If Coastal 8 didn't instruct them to record it in the correct 9 order, then I would think it would be Coastal's 10 error. If Coastal told the clerk to record it in a 11 specific order and the clerk didn't do it, which also 12 happens, then I think it would be an error of the 13 county clerk's office. 14 Q. Okay. And if Coastal had actually 15 intended for it to be recorded in this manner, what 16 would that suggest to you? 17 MR. HAYES: Object to the form. 18 MR. KOTT: Object to the form. 19 A. If you told me they intended to record 20 this last and such that the mortgage wouldn't affect 21 the entire property, if that was their intent, I 22 would attribute a malevolent purpose to it. I don't 23 know why they would intend that. 24 (Fidelity-17, Coastal Title Invoice 25 dated 10/30/96, is received and marked for</p>
<p style="text-align: right;">Page 87</p> <p>1 A. The mortgage is recorded last. 2 Q. So given what you testified earlier, the 3 mortgage was recorded after the 60/40 split would 4 this -- the way this was recorded, it would have 5 affected the lender's interest in this property? 6 A. Yes. 7 Q. Given that Coastal title was the -- it 8 appears to be that Coastal Title was the company -- 9 or the title agent was the one that filed these deeds 10 and this mortgage, Coastal would have been aware at 11 the time that it recorded these documents that it 12 would have affected the lender's interest in this 13 property. Is that correct? 14 A. I'm not sure what Coastal did as far as 15 examining the documents that it was recording. I 16 gather they were given a bunch of unrecorded 17 documents. So I don't know whether they just 18 calculated the fees and sent them all off or actually 19 reviewed each transaction and document. I don't know 20 how they handled the recording. 21 Q. If Coastal Title recorded these deeds in 22 this order and then subsequently filed or recorded 23 the mortgage in the order in which I showed you, 24 would that suggest to you that Coastal was intending 25 to limit the lender's interest in the property?</p>	<p style="text-align: right;">Page 89</p> <p>1 identification.) 2 Q. I'm handing you what's been marked as 3 Fidelity-17, which is an invoice dated October 30, 4 1996 to Stan Yacker. There's a file number at the 5 top. It says, CT-18718A(A). Can you tell where the 6 money would have come from for payment of the title 7 insurance on this invoice? 8 A. I am assuming that Stanley Yacker was 9 going to conduct the closing and be forwarding 10 payment of the invoice to the -- to Coastal Title. 11 (Fidelity-18, Copy of Check from Stanley 12 Yacker, is received and marked for identification.) 13 Q. You have been handed what's marked as 14 Fidelity-18. Can you tell what this document is? 15 A. 18 is a -- looks like a copy of a check 16 from Stanley Yacker made out to Coastal Title. 17 Q. Is that the amount that corresponds with 18 F-17 for 1185? 19 A. Yes. 20 Q. And can you tell -- at the top where it 21 says, "Remittance Advice," there's a notation up 22 there. Can you tell whether or not that notation is 23 referencing the same property we have been 24 discussing, Fidelity -- in the prior exhibits? 25 A. Yes.</p>

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<p>1 Q. There's a date on the left. Can you 2 make out that date?</p> <p>3 A. 11/19/96.</p> <p>4 Q. And this amount would represent what 5 exactly when you compare it to Fidelity-17?</p> <p>6 A. It's payment of the total on the 7 invoice.</p> <p>8 Q. For?</p> <p>9 A. Which includes the out-of-pocket costs, 10 premium, closing service letter fee, some endorsement 11 fees.</p> <p>12 Q. Does it also encompass the policy fee?</p> <p>13 A. Yeah, the premium.</p> <p>14 Q. Okay.</p> <p>15 (Fidelity-19, Fidelity Commitment, is 16 received and marked for identification.)</p> <p>17 (Fidelity-20, Fidelity Commitment, is 18 received and marked for identification.)</p> <p>19 Q. I'm handing you what's been marked as 20 Fidelity-19 and 20. Can you just take a moment to 21 look at both those documents. Can you tell what 22 these are?</p> <p>23 A. These are commitments, title 24 commitments.</p> <p>25 Q. Issued by Fidelity?</p>	<p>1 Taking a look -- I think this is Fidelity-20. These 2 two -- paragraphs three are different, are they not?</p> <p>3 A. They are.</p> <p>4 Q. Okay. And in Fidelity-20 Elaine Smalls 5 is not identified as a party in interest to this 6 property. Is that correct?</p> <p>7 A. Correct.</p> <p>8 Q. Assuming that these two documents were 9 prepared at or around the same time it would suggest 10 that Elaine Smalls should have been identified in 11 Fidelity-20. Is that correct?</p> <p>12 MR. HAYES: Object to the form.</p> <p>13 A. I don't know "should have." I guess as 14 of that effective date title of record would have 15 been in Elaine Smalls. I don't know when this 16 commitment was delivered, and apparently October 23rd 17 Elaine Smalls conveyed the property to Cristo. So I 18 don't know when it was delivered whether she had 19 actually conveyed the property or not, although it 20 was certainly not recorded and couldn't reflect that 21 information.</p> <p>22 Q. So it doesn't make sense that in 23 Fidelity-20 Elaine Smalls is not identified there?</p> <p>24 MR. HAYES: Objection to form.</p> <p>25 A. Again, I've seen this before. You know,</p>
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<p>1 A. On Fidelity paper.</p> <p>2 Q. And the effective date on both of these 3 is October 14, 1996. Correct?</p> <p>4 A. Correct.</p> <p>5 Q. And the file number on both of these is 6 CT-18718 except that Fidelity-20 has the "(A)" 7 whereas Fidelity-19 does not. Is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. And there are different proposed 10 insureds on these two documents?</p> <p>11 A. Yes.</p> <p>12 Q. In Fidelity-19 the proposed insured is 13 Cristo. Correct?</p> <p>14 A. Correct.</p> <p>15 Q. And in Fidelity-20 it's Alicia 16 Juergensen?</p> <p>17 A. Correct.</p> <p>18 Q. Down in paragraph three of Fidelity-19 19 it says: Title is vested in Elaine Smalls as 20 surviving tenant by the entirety by deed from 21 Alexander Bell dated November 29, 1988, recorded 22 December 29, 1988, etcetera, etcetera. Comparing 23 that to Fidelity-20, shouldn't Miss Smalls, Elaine 24 Smalls, be at paragraph three as identified as an 25 interest in this property before it goes to Cristo?</p>	<p>1 is it a preferred way of doing it? Today we wouldn't 2 do it that way.</p> <p>3 Q. And if a lender were receiving 4 Fidelity-20 they would have no way of knowing that 5 there was another party in interest before Cristo. 6 Is that correct?</p> <p>7 MR. KOTT: Object to the form.</p> <p>8 MR. HAYES: Same objection.</p> <p>9 A. I think they would certainly be on 10 notice since there's no date or recording date that 11 there's a question there.</p> <p>12 Q. Move a couple of pages to Section B of 13 each document. Section B, what is the purpose of 14 Section B?</p> <p>15 A. Schedule B 1 -- Section 1 usually sets 16 up different requirements that have to be met in 17 order for a policy to issue.</p> <p>18 Q. And who prepares this section?</p> <p>19 A. Coastal Title would have prepared this 20 commitment and this section.</p> <p>21 Q. And the file numbers on both of these 22 documents is the same except for in Fidelity-20 again 23 there's a capital A. Is that correct?</p> <p>24 A. I'm sorry. Could you repeat that?</p> <p>25 Q. At the top, the file number states</p>

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<p style="text-align: right;">Page 94</p> <p>1 CT-18718 on Fidelity-19. 2 A. Right. 3 Q. And the same file number with the suffix 4 capital A in parenthesis for Fidelity-20? 5 A. Correct. 6 Q. And I'm just going to direct you to 7 paragraph E of both of those documents. If you would 8 review that. There's a distinction between those two 9 paragraphs, is there not? 10 A. They're different. 11 Q. And how so? 12 A. Exhibit 19 requires a deed from Elaine 13 Smalls, spouse, if any, to the proposed insured. And 14 Exhibit 20 requires the deed from Cristo Property 15 Management LTD to the proposed insured. 16 Q. And you stated before that these are 17 certain requirements that are needed before the title 18 policy could be issued. So why is Elaine Smalls not 19 identified in Fidelity-20? 20 A. I don't know why it's not identified. I 21 don't know if the deed had actually already been 22 signed at the time the commitment was issued but not 23 recorded but I don't know. 24 Q. Just going back real quick to 25 Fidelity-13. That's the deed from Elaine Smalls to</p>	<p style="text-align: right;">Page 96</p> <p>1 commitment itself that would inform you as to when a 2 commitment was issued? 3 A. No, you're not going to find the exact 4 date of the commitment, no. 5 Q. Typically is the effective date the date 6 that the commitment is issued? 7 A. No. The effective date is the date the 8 county records were searched to. 9 Q. Right. How long after that would an 10 agent typically wait to prepare a commitment? 11 MR. HAYES: Object to the form. 12 A. The agent is not waiting to prepare a 13 commitment. The agent is ordering a title search. 14 The county records office is not up to date in 15 getting all its documents on record, so you can't 16 search to the present date that you're actually doing 17 the search. So depending on how far behind the 18 county records are, and it can vary from weeks to 19 months, the effective date -- you could do a search 20 in December that had an effective date in September 21 if they were that far behind. It's varied a lot over 22 the years. Sometimes it was several months. 23 Q. Taking a look at Fidelity-19 and 20, 24 specifically 20, if Coastal Title had prepared a 25 commitment with an effective date as here, why</p>
<p style="text-align: right;">Page 95</p> <p>1 Cristo. 2 A. Correct. 3 Q. Can you tell what date the deed is made 4 on? 5 A. Dated October 23, 1996. 6 Q. And the effective date of the commitment 7 is a little over a week before that? 8 MR. HAYES: Object to the form of the 9 question, what it implies. 10 A. The effective date is a week earlier, 11 which effective date is the date of the county 12 recording office that the searches were run to. 13 Q. So as of the date on Fidelity-13 Elaine 14 Smalls was a party in interest to this property. I'm 15 sorry, strike that. It appears from Fidelity-13 that 16 Elaine Smalls conveyed her interest in this property 17 to Cristo on October 13th. Is that correct? October 18 23rd. Is that correct? 19 A. That's correct. 20 Q. Is there any way for Fidelity to 21 determine when a commitment is actually issued? 22 A. I mean, if there was a cover letter or 23 transmittal letter in the agent's file you could 24 tell. 25 Q. Is there anything within just the</p>	<p style="text-align: right;">Page 97</p> <p>1 wouldn't the effective date change after title passed 2 from Elaine Smalls to Cristo? 3 A. Well, one, they may not have updated 4 their searches but I'm just guessing. I mean, you 5 can never be beyond the effective date or the board 6 date in the county on your report. If they had not 7 done a rundown to a later date to see what else had 8 been recorded, then they couldn't have changed the 9 commitment date. 10 Q. Part of the responsibilities of the 11 agent though was to check on what was recorded, 12 right, to have an up-to-date record? 13 A. Yeah. Well, I mean, I'm not sure I 14 understand, but obviously they're going to do a 15 search to produce a commitment, and the commitment 16 effective date should be the date to which they've 17 searched. If the closing takes place they then will 18 continue those searches -- first of all, they should 19 do a rundown to the date of closing to determine 20 what's happened to the closest date they can get to 21 the actual date of closing. And then following 22 closing they're going to run it down again through 23 the date of recording of the instruments. If we're 24 going to insure the mortgage, you know, in a loan 25 policy, then we're going to want to search the date</p>

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<p style="text-align: right;">Page 98</p> <p>1 of recording of the mortgage. 2 Q. And do you know whether or not Coastal 3 was doing that here? 4 A. I don't recall looking through the 5 files, but I would assume that they would run cover 6 record searches to -- through the date of recording 7 and when the documents got recorded. 8 (Fidelity-21, Loan Policy of Title 9 Insurance, is received and marked for 10 identification.) 11 Q. I'm handing you what's been marked as 12 Fidelity-21. Can you tell me what this document is? 13 A. It's a loan policy. 14 Q. On which property? 15 A. On the same property we've been 16 discussing. 17 Q. And just going back to the portion 18 dealing with "Exceptions." Are these the only 19 exceptions to this policy? I think it's at FY 2465. 20 A. Unless there's an endorsement that's not 21 attached, these appear to be the only exceptions to 22 the policy. 23 Q. Does it say anywhere in this policy that 24 the insured is required to have a copy of this policy 25 in order for it to be effective?</p>	<p style="text-align: right;">Page 100</p> <p>1 problem, would that problem be covered by this 2 policy? 3 A. Absent any defenses under the exclusion 4 of the policy or other terms of the policy. 5 Q. Was that: Yes, absent those terms and 6 conditions? 7 A. It appears that it would be covered 8 absent any relevant exclusions or violations of other 9 terms or conditions. 10 Q. If you take a look at -- on Fidelity-21 11 at paragraph four it states: "Mortgage made by 12 Alicia Juergensen to National Home Funding dated 13 11/13/96 and recorded on 4/9/97, "and going back to 14 Fidelity-16, can you determine whether or not this 15 policy was issued on the same day that it was 16 recorded? 17 A. The policy wasn't recorded -- you mean 18 was the policy issued on the date the mortgage was 19 recorded? 20 Q. Yes. 21 A. I cannot tell that from this document. 22 Q. You can't tell from the policy? 23 A. Correct. It's unlikely. 24 Q. That's because the policy date doesn't 25 reflect the date that it was actually issued?</p>
<p style="text-align: right;">Page 99</p> <p>1 A. One, this is not the entire policy 2 jacket, it doesn't include the terms and conditions. 3 I am not aware that there's a -- if there's a term or 4 condition that says you have to have a policy. 5 Q. A physical policy in hand? 6 A. It makes sense you have to prove you 7 have coverage, but I'm not sure if there's a specific 8 provision that relates to that policy jacket. 9 Q. And who is the insured on this policy? 10 A. The insured is National Home Funding 11 Inc., its successors and/or assigns as their 12 interests may appear. 13 Q. And if the mortgage at Fidelity-16 was 14 recorded after the prior deeds, which I believe are 15 13 -- Fidelity-13 through 16, would this loan policy 16 cover any deficiency in title for the lender of that 17 mortgage? 18 MR. HAYES: Object to the form. 19 A. Without getting into coverage issues, 20 the fact that the mortgage is recorded after a deed 21 that partially conveys out interest in the property, 22 which then are not encumbered by the mortgage, I 23 think there's a problem with the lien of the mortgage 24 on the entire 100 percent interest in the property. 25 Q. In that -- what you just said, that</p>	<p style="text-align: right;">Page 101</p> <p>1 A. It reflects the recording date of the 2 mortgage. 3 Q. Okay. 4 (Fidelity-22, HUD-1, is received and 5 marked for identification.) 6 Q. I'm handing you what's been marked as 7 Fidelity-22, which is a HUD-1 Uniform Settlement 8 Statement. At the top it has a loan number. Loan is 9 622645. Down at the bottom it has Bates number of FY 10 2571, which indicates that this document was produced 11 by Fidelity. How did Fidelity obtain this document? 12 A. I don't know. 13 Q. Would this have been a document that 14 would have been in Coastal Title's files? 15 A. If the closing attorney had sent Coastal 16 a copy of the HUD with the closing package or some 17 other time, it might be in Coastal's file, but 18 Coastal didn't conduct the closing, so somehow it 19 must have come from presumably Stanley Yacker who was 20 the closer. 21 Q. So was it sent by Stanley Yacker to 22 Fidelity or was it sent by Coastal to Fidelity? 23 A. That I don't know. 24 Q. At line 1108 it states: Title insurance 25 to Coastal Title Agency, and then there's an amount</p>

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<p style="text-align: right;">Page 102</p> <p>1 of \$1,185, which seems to correspond with Fidelity-17 2 and 18. Can you tell by looking at this settlement 3 statement which party paid for the title insurance? 4 A. Paid from the seller's funds. 5 Q. And going back to the front of the page 6 there's a -- there are two columns, one is J, one is 7 K, and there's an -- at line 420 there's a gross 8 amount to seller. Those funds were to be coming from 9 the lender. Is that correct? 10 A. These -- at least to the extent of the 11 loan presumably. Looks like the borrower brought 12 some money to closing. 13 Q. Okay. 14 A. Also represented that there was a 15 deposit. 16 (Fidelity-23, Closing Instructions by 17 Walsh Securities, Inc., is received and marked for 18 identification.) 19 Q. I'm going to hand you what's been marked 20 as Fidelity-23, which is Closing Instructions By 21 Walsh Securities. It states at the top, "Assignee of 22 National Home Funding." On the second page it states 23 that, "We require full ALTA title policy delivered 24 within 30 days of closing. All title policies are to 25 be sent Walsh Securities." Then going back to the</p>	<p style="text-align: right;">Page 104</p> <p>1 interest in the property such that the mortgage being 2 made couldn't encumber the entire property because it 3 was not signed by all the owners. 4 Q. Do you think that that deed fits within 5 the descriptions under Section B? 6 A. No, no. 7 Q. And what do you base that answer on? 8 A. I don't think that's the nature of the 9 defect. I don't think it -- I don't think that's 10 what you would call a lien or a mortgage or a 11 judgment. 12 Q. Can you try again to define what you 13 would call it then? 14 MR. HAYES: Other than how she's already 15 done it? 16 MR. MEE: I'm just asking her again. 17 A. No. An interest in a property had been 18 conveyed to another party who didn't sign the 19 mortgage, so the mortgage was not effective to 20 encumber the interest of the party that didn't sign 21 it. 22 Q. If you turn to the second page again, it 23 says at "Section E, Title Insurance Requirements: 24 This loan must record in the first lien position." 25 Based on that 60/40 deed that I've shown</p>
<p style="text-align: right;">Page 103</p> <p>1 first page it states that the closing date is 2 November 13, 1996. Based on the documents that 3 you've reviewed are you able to tell whether or not a 4 title policy was sent to Walsh Securities within 30 5 days of that closing date? 6 A. Doesn't appear that that was possible 7 given the policy effective date of April '97. 8 Q. Do you know -- at the bottom underneath 9 Section B it states: "Conditions to be satisfied 10 prior to disbursement of loan proceeds." Underneath 11 that it says: "Pay off of all liens, mortgages and 12 judgments." 13 Would you consider the intervening 60/40 14 deed a lien on this property? 15 A. I don't think of it as a lien but 16 obviously it affects the priority of the mortgage. 17 Q. Would it be considered a mortgage? 18 A. No. 19 Q. What would you characterize it as? 20 A. A portion of the -- or an interest in 21 the property that was not encumbered by the mortgage. 22 Q. Would it be -- would you consider it an 23 un-encumbrance on the property? 24 A. I don't think I would characterize it as 25 that either. It's -- it was a prior conveyance of an</p>	<p style="text-align: right;">Page 105</p> <p>1 you, can you tell whether or not this mortgage was 2 recorded in a first lien position? 3 A. I would say no. 4 Q. So would that be considered a departure 5 from the lender's closing instructions? 6 A. Yes. 7 (Fidelity-24, Letter dated 6/16/97, is 8 received and marked for identification.) 9 (Fidelity-25, Letter dated 6/4/97, is 10 received and marked for identification.) 11 (Fidelity-26, Letter dated 7/8/97, is 12 received and marked for identification.) 13 Q. I'm handing you what's been marked as 14 Fidelity-24, which is a letter from Coastal Title 15 dated June 16, 1997 to Stanley Yacker regarding 16 various files. It states: "Please be advised that 17 below is a list of files that" -- I'm sorry. "Please 18 be advised that the below is a list of files that 19 closed. The deed and mortgage have been recorded. 20 We have received closing papers, however we have not 21 received payment." And it identifies several 22 properties. 23 I am going to hand you what's been 24 marked as Fidelity-25. It's a letter dated June 4, 25 1997. This one is going to Anthony Cicalese also</p>

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<p style="text-align: right;">Page 106</p> <p>1 from Coastal Title Agency. "Please be advised that 2 the following is a list of files that were closed and 3 the documents have been recorded and we have received 4 closing papers, however payment has not yet been 5 received." 6 And I'm going to hand you what's been 7 marked as Fidelity-26, which is a letter from Stanley 8 Yacker to Bob Agel at Coastal Title stating that "In 9 reply to your letter of June 16, 1997 and July 7, 10 1997, please be advised that the monies collected for 11 payment of your five designated matters were 12 inadvertently advanced to Cristo Property and/or Bill 13 Kane in the form of overpayments to the seller. Bill 14 Kane is aware of the overpayment and has acknowledged 15 same, although he disputes the actual amount. You 16 will recall, I am sure, that he paid nearly \$50,000 17 to your firm so that various deeds and mortgages 18 could be recorded. The same principle applies now." 19 Was Fidelity aware of this letter in 20 July of 1997? 21 A. I don't recall seeing it in the files 22 that I reviewed so I can't state positively that they 23 were not, but I don't see any evidence they were 24 aware of it. 25 Q. If Fidelity had received a letter like</p>	<p style="text-align: right;">Page 108</p> <p>1 and if they're being recorded late, then it's a 2 problem for us. 3 Q. The portion that says that funds were 4 inadvertently advanced to Cristo Property or Bill 5 Kane in the form of overpayments to the seller, does 6 that suggest that there's something inappropriate 7 going on here? 8 A. In hindsight I guess that's easy to say. 9 You know, could there be overpayments to a seller? I 10 assume that could happen. 11 Q. Would the company be alarmed that 12 this -- that this type of activity may trigger some 13 type of liability under -- for the company? 14 A. If the agent didn't receive the premium, 15 I think we would be upset because we weren't getting 16 paid and we would expect to be paid for any insurance 17 that we had committed to insure. 18 Q. Going back to Fidelity-24, 25, the 19 properties identified here appear to be the same 20 properties. Presumably Mr. Agel would know who the 21 closing attorney would have been for these 22 properties. Correct? 23 A. I would think he could identify that 24 from his file. 25 Q. So can you -- do you have any knowledge</p>
<p style="text-align: right;">Page 107</p> <p>1 this more recently what would the company do? 2 A. Well, I guess we would wonder why it 3 would be sending 50,000 to record documents. That 4 has to be a significant amount of documents that were 5 not recorded, which obviously, again, if documents 6 are not getting recorded can present a risk to the 7 company, intervening liens or the like. So I would 8 assume somebody might make an inquiry about -- I 9 don't know how we would come to possess a copy of 10 this letter, but if we knew that was going on, we 11 would probably make an inquiry as to what was going 12 on. 13 Q. It's fair to say that it would raise red 14 flags within the company? 15 A. Yeah, I don't know -- I guess that's 16 probably fair to say. I mean, it's an indication 17 that -- that's a significant number I think of deeds 18 that must be off record unless it's realty transfer 19 taxes and things involved in that, in that number, 20 which could bring down the number of transactions 21 involved, but it sounds like if it's strictly 22 recording fees it's a lot of documents that are not 23 on record, and unless they're all being delivered in 24 connection with a transaction on multiple properties 25 at once, then they're probably being recorded late</p>	<p style="text-align: right;">Page 109</p> <p>1 or can you venture a guess as to why he would be 2 sending the same letter to both Mr. Cicalese and to 3 Mr. Yacker? 4 A. I don't know. 5 MR. MEE: I think I can probably wrap up 6 in about five minutes if you allow a short break. 7 (A recess takes place.) 8 Q. Just a few more questions. I just ask 9 you to take a look at Fidelity-24 -- 22, 23, and 24. 10 And assuming that the lender's HUD-1 and closing 11 instructions were the same as those two examples in 12 22 and 23 that you have in front of you, wouldn't the 13 closing attorney have violated the closing 14 instructions and the HUD-1 form by not having paid 15 off the fees for the policy -- the loan policy and 16 the title policy -- 17 MR. KOTT: Object to the form. 18 Q. -- identified in 24? 19 MR. KOTT: Sorry. I was early. I 20 object to the form. 21 A. I'm sorry. Would they have violated the 22 loan instructions by failing to pay off the -- for 23 the title insurance premium? 24 Q. So if you look at Fidelity-24, it notes 25 that files have closed on these properties although</p>

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<p style="text-align: right;">Page 110</p> <p>1 -- and that the deed and the mortgage have been 2 recorded, but that Coastal has not received payment 3 on these properties, and what I want you to assume is 4 that the HUD-1 and the closing instructions were the 5 same as far as what would be identified for the 6 properties in 24. 7 A. Okay. Pretend that one of -- that this 8 transaction is actually one of those referenced in 9 the June 16 letter? 10 Q. Exactly. Exactly. So wouldn't that 11 violate the lender's closing instructions? 12 A. The loan instructions require a title 13 policy so I guess -- are you saying: So if Coastal 14 refused to issue a title policy because they weren't 15 paid for one, would that violate the lender's 16 instructions? 17 Q. Would it have? 18 A. I guess if Coastal refused to issue one 19 because they weren't paid -- I'm not sure they would 20 do that, mind you, but if that happened, I guess that 21 would violate closing instructions. 22 Q. I mean, the lender would probably be a 23 bit upset if it hadn't received the policy after the 24 deed and the mortgage had been recorded. Is that 25 right?</p>	<p style="text-align: right;">Page 112</p> <p>1 CERTIFICATE. 2 3 I, JANET BAILYN, a Notary Public and 4 Certified Court Reporter of the State of New Jersey, 5 do hereby certify that prior to the commencement of 6 the examination DONNA SULLIVAN was duly sworn by me 7 to testify the truth, the whole truth and nothing but 8 the truth. 9 I DO FURTHER CERTIFY that the foregoing 10 is a true and accurate transcript of the testimony as 11 taken stenographically by and before me at the time, 12 place and on the date hereinbefore set forth. 13 I DO FURTHER CERTIFY that I am neither a 14 relative nor employee nor attorney nor counsel of any 15 of the parties to this action, and that I am neither 16 a relative nor employee of such attorney or counsel, 17 and that I am not financially interested in the 18 action. 19 20 21 Notary Public of the State of New Jersey 22 My commission expires February 3, 2013 23 License No. XI00970 24 25 Date: October 3, 2011</p>
<p style="text-align: right;">Page 111</p> <p>1 A. I would assume they're expecting that, 2 so they wouldn't be happy if they didn't get that. 3 Q. And then I think my last question is: 4 In your review of all these documents and the 5 preparation of your deposition today have you been 6 able to determine what Fidelity's profits were on the 7 loans at issue in this case? 8 A. As I've said before I've only tried to 9 search the 84 file numbers referenced on that 10 particular chart that I had, and of those 11 approximately 80, 84, approximately 20 had 12 remittances that I could determine were paid to 13 Fidelity or Nations, and they averaged I believe 100 14 to 110 a property. So that to me is the extent of 15 the income that I can tie to any of the Walsh 16 transactions. 17 Q. I think we're done. Thank you very much 18 for coming. I appreciate it. 19 A. You're welcome. 20 Q. It's a long day. 21 (The deposition is concluded at 2:42 22 p.m.) 23 24 25</p>	

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